

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 23 2004

OFFICE OF
MANAGING DIRECTOR

Drew N. Hamilton
Corporate Controller
GTC Telecom
3151 Airway Avenue, Suite P-3
Costa Mesa, CA 92626

Re: Request for Waiver of FY 2003 Regulatory
Fees for GTC Telecom
Fee Control No. 00000RROG-04-033

Dear Mr. Hamilton:

This responds to your January 12, 2004 letter requesting waiver and refund of regulatory fees in the amount of \$18,936.77 for Fiscal Year (FY) 2003 for GTC Telecom. Our records indicate that you have paid this fee.

In your January 12, 2004 request, you provide financial documentation covering the twelve-month period ending June 30, 2003, the last nine months of which fall in FY 2003. This information includes a balance sheet, statements of operations and cash flows, and a summary of compensation paid to principals, to support your claim that GTC Telecom is unable to pay its FY 2003 regulatory fee. For the period ending June 30, 2003, you show a net loss of \$29,106. You also state that during the most recent fiscal quarter ending September 30, 2003, GTC Telecom experienced a net loss of \$342,436 and a decrease in total revenues of 25 percent compared with the same fiscal quarter in 2002. You also state that GTC Telecom has experienced a decrease in total annual revenues of 12 percent from FY 2002 to FY 2003, has been unable to pay its vendors for services rendered, and has a lack of profitable operational history that raises substantial doubt about its ability to continue as a going concern. In a supplemental submission dated February 4, 2004, you provide updated information for some of the financial documentation contained in your January 12 request. This information is recalculated to cover the twelve-month period ending September 30, 2003, which period of time corresponds to FY 2003.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-62.

In reviewing a claim of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, to determine whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, as well as deductions for depreciation and amortization and similar items that do not affect cash flow, are considered funds available to pay the fees.

In this case, your February 12 submission shows that for FY 2003, GTC Telecom experienced a net loss of \$462,466. Your January 12 request indicates, however, that for the twelve-month period ending June 30, 2003 (the last nine months of which fall in FY 2003), GTC Telecom claimed expenses for depreciation and amortization of \$149,248, and paid a total of \$686,467 in compensation to its principals, and thus had money from which to pay the fees. As to the latter figure, please note that we do not distinguish between salaries and discretionary payments such as dividends in considering the total amount of funds available to pay regulatory fees made obligatory by federal law. Because the reported losses upon which you rely resulted from depreciation and payments to corporate officers, GTC Telecom has not made a compelling showing of financial hardship. Accordingly, we deny your request for waiver and refund of GTC Telecom's regulatory fee of \$18,936.77 for FY 2003.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



for Mark A. Reger
Chief Financial Officer



00000 RR06-04-033

Tom
1/27/04
Cep

RECEIVED
FCC

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2004 JAN 23 P 6:06

January 12, 2004

Federal Communications Commission
445 12th St SW
Attn: Managing Director
Room 1A625
Washington DC 20554

ACCOUNT PROCESSING
GROUP-DPT/RPT/TMT

Attn: Regulatory Fee Waiver Reduction Request

To Whom It May Concern:

I am writing to request a hardship waiver of GTC Telecom's 2003 FCC Regulatory Fee of \$18,936.77 and I have enclosed GTC Telecom's financials for the last year. I have also enclosed the compensation for GTC Telecom's executive employees from our public filings. GTC Telecom has not paid any dividends since our inception.

GTC Telecom requests that the FCC determine the true financial hardship of GTC Telecom by examining the following issues facing GTC Telecom:

1. GTC Telecom had a net decrease in cash of \$225,566 for the fiscal year ending June 30, 2003, ending with a cash balance of \$500 as of June 30, 2003. GTC Telecom's accounts payable increased by \$1,336,958 during this period as GTC Telecom was unable to pay its vendors for services rendered. This is primarily due to GTC Telecom's obligation to pay its main supplier for monthly services and long-term debt (which totals \$6,275,176). GTC Telecom is requesting this refund to be able to pay its suppliers for monies owed. See #2 below for discussion on long-term viability of GTC Telecom.
2. The Company has a going concern opinion on its Financial Statements for the year ended June 30, 2003, from its outside auditors (Squar, Milner, Reehl & Williamson), negative working capital of \$3,543,382, an accumulated deficit of \$15,171,762, and a stockholders' deficit of \$6,316,145; in addition, the Company has a lack of profitable operational history, among other matters, that raise substantial doubt about its ability to continue as a going concern.
3. The Company's average Accounts Payable days outstanding is 153 days.
4. The Company's total annual revenues decreased from \$17,131,054 in fiscal year 2003 to \$15,147,658 in fiscal year 2002, a decrease of 12%.
5. During the Company's most recent fiscal quarter ended September 30, 2003, the Company had a net loss of \$342,436 and a decrease in total revenues of 25% when compared to the same quarter in the previous year.

Therefore, GTC Telecom believes it should be given financial hardship and have the FCC fee of \$18,936.77 for 2003 refunded.

Please contact me regarding any relevant information pertaining to this issue.

Sincerely,

Drew N. Hamilton
Corporate Controller
GTC Telecom

JAN 27 2004

Tom Putnam

From: Andrea Kearney
Sent: Thursday, February 05, 2004 1:16 PM
To: Tom Putnam
Subject: RE: GTC Telecom

Thanks Tom. I don't think I need the payment reports but if that changes I will let you know. Andrea

-----Original Message-----

From: Tom Putnam
Sent: Thursday, February 05, 2004 12:21 PM
To: Andrea Kearney
Subject: RE: GTC Telecom

No problem

I have payment reports if you need them for your files

Tom Putnam
418-2992

*** Non-Public: For Internal Use Only ***

-----Original Message-----

From: Andrea Kearney
Sent: Thursday, February 05, 2004 7:44 AM
To: Tom Putnam
Subject: RE: GTC Telecom

Thank you, Tom. Andrea

-----Original Message-----

From: Tom Putnam
Sent: Wednesday, February 04, 2004 3:16 PM
To: Andrea Kearney
Subject: GTC Telecom

Andrea,

GTC Telecom Payment was received 9/23/2003

Fee Control Number is 0309248835388010 \$ 18,936.77

I have payment reports if you need them for your files

Tom Putnam
418-2992

*** Non-Public: For Internal Use Only ***

**RAMIS ACCOUNT RECEIVABLES****Check Number Query Report**

FEE Control Number : 0102208180558006			
Customer FRN	: 9999999982	FRN Name	: GENERIC FRN
Check Number	: 12318		
Receipt Amount	: \$50.00	Date Received	: 02/16/2001
FEE Control Number : 0205208205212003			
Customer FRN	: 0006695233	FRN Name	: Selectavision Cable Of Cazenovia Inc
Check Number	: 12318		
Receipt Amount	: \$50.00	Date Received	: 05/18/2002
FEE Control Number : 0209168835190005			
Customer FRN	: 0001745850	FRN Name	: The O Neal Broadcasting Corporation
Check Number	: 123180000000		
Receipt Amount	: \$935.00	Date Received	: 09/13/2002
FEE Control Number : 0209308994474010			
Customer FRN	: 0005120399	FRN Name	: Industrial Telecommunications Association, Inc.
Check Number	: 123180000000		
Receipt Amount	: \$100.00	Date Received	: 09/27/2002
FEE Control Number : 0211138350332002			
Customer FRN	: 0007695927	FRN Name	: Desert Broadcasting, Inc.
Check Number	: 123180000000		
Receipt Amount	: \$110.00	Date Received	: 11/12/2002
FEE Control Number : 0309248835388010			
Customer FRN	: 9999999982	FRN Name	: GENERIC FRN
Check Number	: 123180000000		
Receipt Amount	: \$18,936.77	Date Received	: 09/23/2003
FEE Control Number : 0311108130078001			
Customer FRN	: 0000002503	FRN Name	: BASSBACH COMMUNICATIONS
Check Number	: 123180000000		
Receipt Amount	: \$100.00	Date Received	: 11/10/2003

CD NO.	CD DATE	FEE CONTROL NO.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560811	9/24/03	0309248835388010	9999999982	GENERIC FRN	9/23/03	\$18,936.77
<p>PTC: 0372 Seq: 1 Call Sign: 8187202003 FCC Code 1: 951596400 FCC Code 2: 000</p> <p>Applicant Name: GTC TELECOM INC QTY: 9515964 Applied Amt: 18936.77</p> <p>Address: 3151 AIRWAY AVE</p>						
Total Applied:						\$18,936.77
Total Receipt:						\$18,936.77



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Leading the way in Telecommunications

MAR 18 2:52

March 1, 2004

Federal Communications Commission
445 12th St SW
Attn: Managing Director
Room [REDACTED]
Washington DC 20554

ACCOUNT PROCESSING
GROUP - OPT/RPT/TMT

Attn: Regulatory Fee Waiver Reduction Request

To Whom It May Concern:

I am replying to an emailed request for additional information regarding our pending regulatory fee waiver request. Below is additional information that may be useful to make a determination for our request:

- Please refer to the attached Independent Auditor's Report. The fourth paragraph summarizes GTC's financial position as follows:

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As disclosed in Note 1, the Company has incurred operating losses in the last two years, has a working capital deficit of \$3,601,382, liabilities from the underpayment of payroll taxes, an accumulated deficit of \$15,248,585, and a stockholders' deficit of \$6,392,967 at June 30, 2003. These factors, among others, raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are described in Note 1. The consolidated financial statements do not include any adjustments that may result from the outcome of this uncertainty.

- I have enclosed a calculation of the Income Statement for the Year: October 1, 2002 - September 30, 2003. This shows a net loss of (\$462,466). If a non-cash item that reversed expense from previous periods were excluded, "Waiver of payroll tax penalties and interest" of \$332,018, this would have resulted in a net loss of (\$794,484) for the Income Statement for the year ending September 30, 2003.
- As stated previously, GTC has not made any dividends to principals for the period of this waiver request. Regarding GTC's compensation to principals, the FCC has stated the following:

"Thus, although deductions for amortization and depreciation, and payments to principals reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee."

GTC is requesting clarification about the definition of "payments to principals" by the FCC. If "payments" is to include both salary and dividends, and if "principals" is to be defined as an owner or stockholder, GTC feels that the FCC provides benefit in the area of salary payments to companies where owners/stockholders do not receive salary. Salary paid to GTC's principals represent salary payments to manage, plan and direct the company in the capacities of CEO, President, CFO and COO. Simply because non-excessive salary payments are made to principals does not mean they should be "considered to be available to pay the regulatory fee" - every company needs to make salary payments to its executives to be effectively managed.

Lastly, salary payments are not discretionary like dividend payments. Dividends often represent "profits" that are distributed to owners/stockholders. Salary payments do not mirror this dividend scenario.

Thank you again for your help in processing our request. If you have any questions, please feel free to call me.

Sincerely,

Drew Hamilton
Controller, GTC Telecom

MAR 19 2004

Independent Auditors' Report

To the Board of Directors and Shareholders of
GTC Telecom Corp.

We have audited the accompanying consolidated balance sheet of GTC Telecom Corp. (the "Company") and subsidiaries as of June 30, 2003 and the related consolidated statements of operations, comprehensive loss, stockholders' deficit and cash flows for each of the years in the two-year period ended June 30, 2003. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of GTC Telecom Corp. and subsidiaries at June 30, 2003 and the consolidated results of their operations and their cash flows for each of the years in the two-year period ended June 30, 2003, in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As disclosed in Note 1, the Company has incurred operating losses in the last two years, has a working capital deficit of \$3,601,382, liabilities from the underpayment of payroll taxes, an accumulated deficit of \$15,248,585, and a stockholders' deficit of \$6,392,967 at June 30, 2003. These factors, among others, raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are described in Note 1. The consolidated financial statements do not include any adjustments that may result from the outcome of this uncertainty.

/s/ SQUAR, MILNER, REEHL & WILLIAMSON, LLP

Newport Beach, California
August 29, 2003, except for Note 14, as to which the
date is September 19, 2003